IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 12TH JUNE 2007 / 22ND JYAISHTA 1929

Crl.MC.No. 1891 of 2007()

AGAINST THE ORDER IN CC. 771 /1998 IN
LP.46/2007 of JUDL.MAGISTRATE OF FIRST CLASS, PARAVOOR

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PETITIONER: ACCUSED

MALATHY @ OMANA,D/O.THILOTHAMA,
AGED 48 YEARS,
SIVAMANDIRAM,EDAVATTOM,CHIKKARA.P.O.KOLLAM

BY ADV. SRI. K.SIJU

RESPONDENTS: STATE
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1. STATE OF REPRESENTED BY THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

2. USHAKUMARI AMMA,D/O.SARASWATHY AMMA,
AGED 41 YEARS,PUTHENVEEDU,CHIRAKKARA,
EDAVATTOM P.O.,KOLLAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 12/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1891 of 2007

Dated this the 12th day of June 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 420 I.P.C. The offence took place long earlier. The case against the petitioner was pending as C.C.No.771/1998. Consequent to non-appearance of the petitioner, the case was transferred to the list of long pending cases and the same is now pending as L.P.No.46/2007. The petitioner was not available for trial as she had to leave to her place of employment at Gulf. She now wants to surrender before the learned Magistrate and apply for bail. But she apprehends that her application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. She, therefore, prays that the directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when she appears and applies for bail.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the

circumstances under which she could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs.Deputy Superintendent of Police [2003(1)KLT 339].

3. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007